



OFA ♦ OLR RESEARCH REPORT

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STATE AND DEPARTMENT OF CHILDREN AND FAMILIES' OBLIGATIONS AND EXPENDITURES UNDER JUAN F CONSENT DECREE

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You asked about the state and the Department of Children and Families' (DCF) obligations under the *Juan F. Consent Decree* and how much compliance has cost the state.

SUMMARY

In 1989 two children's advocacy groups filed a class action lawsuit against the state in the federal district court for the district of Connecticut. The suit was brought on behalf of all children in foster care or who the agency knew, or should have known, were at risk for being the victims of abuse or neglect (*Juan F. v. O'Neill, et al.*, Civ. No. H-89-859 (AHN)). The Department of Children and Youth Services (DCF's predecessor) was a named defendant, as was Governor O'Neill, as representative of the state of Connecticut. The plaintiffs asserted that approximately 100 agency practices violated the children's rights under federal child protection laws and the Constitution. The suit broadly challenged the department's management of, and policies, practices, operations, and protocols for responding to abused and neglected children in its custody and those at risk of being abused and neglected. The claims against the state were based on its inadequate funding of child welfare services.

In 1991 the court approved a stipulated agreement that established staffing ratios the department had to follow and created a comprehensive set of policy manuals covering all areas of the agency's responsibility. The agreement also authorized the court to appoint a monitor to review the department's progress and help ensure compliance with the decree.

Over the years, the court has approved many modifications to the original decree. Under the current version, known as the *Juan F.* Exit Plan, the court must dismiss the case when the department consistently meets 22 outcome measures, ranging from the time it takes the agency to begin investigating a report of suspected abuse to the adequacy of its planning for children who are aging out of foster care.

The department's most recent report to the court monitor indicates that it has met 17 of the Exit Plan's outcome measures.

Significant funding has been expended by DCF for compliance activities undertaken since the consent decree's inception. Precise costs are not readily identifiable, for reasons discussed below. However, the consent decree can clearly be considered the major driver behind the agency's budget growth since 1990, which has risen more than three times faster than the remainder of the state's General Fund over the same time period.

The state has also incurred significant costs related to attorneys fees and litigation costs, and has been responsible for reimbursing the operating costs of the *Juan F.* Court Monitor's Office.

BACKGROUND AND TIMELINE OF LITIGATION TO DATE

Among other things, the *Juan F.* plaintiffs claimed that the state had violated the children's federal statutory rights to be protected from abuse and neglect and to be given a permanent placement within a reasonable time. They claimed that these same state actions violated their rights under the First, 14th, and Ninth Amendments to the U.S. Constitution. They also claimed that the State of Connecticut was liable for failing to adequately fund legally mandated services. The factual bases for their claims were, generally, that the Department of Children and Youth Services was:

1. not investigating reports of neglect in a timely or adequate fashion;
2. poorly training caseworkers and assigning them caseloads that were too large to adequately protect children;
3. creating working conditions that resulted in high caseworker turnover rates;

4. failing to adequately assess and provide for foster children's essential treatment and support service needs, especially for mental health services;
5. providing inadequate services to allow children to either remain, or be reunited, with their families after the department had substantiated a claim of abuse or neglect; and
6. not providing services necessary to find permanent adoptive homes when family reunification was not appropriate.

Table 1 is a brief timeline of significant events to date.

Table 1: Juan F. Timeline

<i>Date</i>	<i>Action</i>
12/1989	The plaintiffs file their class-action complaint.
1/1991	The court approves the parties' negotiated consent decree and appoints an independent monitor to report on the defendants' progress in implementing it.
9/1992	The parties create 12 detailed manuals addressing reforms, which the court approves.
12/1992	The court orders continuing independent monitoring of the consent decree's implementation.
1995-2001	The parties negotiate multiple corrective action agreements to resolve non-compliance issues.
2/2002	The court approves an 18-month Transition Plan. It will dismiss the case if DCF meets specified outcomes.
7/2003	The court finds that (1) about one-half of the agency's staff have caseloads that exceed the Transition Plan's numerical limitations and (2) DCF is understaffed and has not promptly filled vacancies. The judge orders it to fully comply with caseload standards by March 1, 2004.
7/2003	The court finds that many adoptable children suffer multiple traumas that worsen their emotional and mental health, including long stays in DCF custody, multiple placements, separation from siblings, abuse in foster homes, and multiple social workers.
8/2003	The court monitor reports that DCF is not meeting the majority of the Transition Plan's outcome measures.
9/2003	The court finds the department in substantial non-compliance with the Transition Plan.

Table 1 (continued)

Date	Action
10/2003	DCF admits non-compliance and agrees to transfer managerial authority to the court monitor, who is directed to prepare a new <i>Juan F.</i> Exit Plan. The agency's operations are jointly supervised by the monitor and DCF and OPM commissioners.
1/2004	The court approves the <i>Juan F.</i> Exit Plan, providing that court supervision will end when the department reaches and remains in compliance with 22 outcome measures in areas of child safety, permanency, and well-being.
1/2006	The parties agree to modify the outcome measures for (1) treatment planning and (2) meeting the service needs of foster children.
8/2006	The monitor's report indicates that DCF met 15 of the plan's 22 outcome measures in the second quarter of 2006.
11/2006	The monitor's report indicates that DCF met 17 of the plan's 22 outcome measures in the third quarter of 2006

DCF'S OBLIGATIONS UNDER JUAN F. CONSENT DECREE

DCF must comply with the 22 outcome measures to exit from the *Juan F.* Consent Decree.

The court monitor must recommend that the court dismiss the plaintiff's complaint when he verifies that the department has complied with each of the 22 outcome measures for at least six consecutive months, and is currently complying with all of them.

Table 2 describes each of the outcome measures. Asterisks (*) identify the five criteria that the agency has not met as of the third quarter of 2006.

Table 2: Exit Plan Criteria

Obligation	Outcome Measure
1. Commencement of Investigation	At least 90% of all abuse and neglect investigations must be begun within the agency's time limits (these vary depending on the severity of the charges).
2. Completion of Investigation	At least 85% of all abuse and neglect investigations must be completed within 45 calendar days.

Table 2 (continued)

Obligation	Outcome Measure
3. Treatment Plans*	At least 90% of cases must have clinically appropriate, individualized treatment plans, developed with family and community members and approved within 60 days.
4. Search for Relatives	DCF must search for relatives, extended or informal networks, friends, family, former foster parents or other significant persons known to the child for at least 85% of the children placed with it.
5. Repeat Maltreatment*	No more than 7% of children who are victims of substantiated maltreatment may be maltreated again within six months of the first incident.
6. Maltreatment of Children in Out-of-Home Care	No more than 2% of children may be maltreated by a substitute caregiver while in out-of-home care.
7. Reunification*	At least 60% of children who are reunified with parents or guardians must have the process completed within 12 months of their most recent removal from home.
8. Adoption*	At least 32% of children who are adopted must have the legal procedures completed within 24 months of their most recent removal from home.
9. Transfer of Guardianship	At least 70% of all children whose custody is legally transferred must have their guardianship transferred within 24 months of their most recent removal from home. The requirement excludes voluntary cases.
10. Sibling Placement*	At least 95% of siblings currently in or entering out-of-home placements must be placed together unless there are documented clinical reasons for separate placements.

Table 2 (continued)

Obligation	Outcome Measure
11. Re-Entry into DCF Custody	No more than 7% of all children entering DCF custody may re-enter care within 12 months of a prior out-of-home placement.
12. Multiple Placements	At least 85% of children in DCF custody must experience less than three placements during any 12-month period, excluding respite, hospitalizations lasting less than seven days, unexcused absences (running away), or delinquency commitments.
13. Foster Parent Training	All foster parents must be offered 45 hours of post-licensing training within 18 months of initial licensure and at least nine hours each subsequent year.
14. Placement Within Licensed Capacity	At least 96% of all children placed in foster homes must be in foster homes operating within their licensed capacity, except when necessary to accommodate siblings.
15. Needs Met*	At least 80% of all families and children must have their medical, dental, mental health, and other service needs provided as specified in the most recent treatment plan.
16. Worker-Child Visitation, Out-of-Home	Social workers must visit all children quarterly. They must visit at least 85% of children in out-of-home care monthly.
17. Worker-Child Visitation, In-Home	Social workers must visit at least 85% of all children in in-home placements at least twice a month.
18. Caseload Standards	No DCF social worker's caseload can exceed the specified standard (these vary by case type) for more than 30 days.
19. Residential Placement Reduction	No more than 11% of the total number of children in out-of-home care shall be in residential placements. This includes Voluntary cases.

Table 2 (continued)

Obligation	Outcome Measure
20. Discharge Measures	At least 85% of children age 18 or older must achieve specified educational/vocational goals prior to discharge from DCF custody (e.g. earn a high school diploma or find full time employment).
21. Discharge of Mentally Ill or Mentally Retarded Children	DCF must submit a written discharge plan to DMHAS or DMR for all committed children who are mentally ill or retarded and require adult services within 180 days before their anticipated discharge date.
22. Multi-Disciplinary Exams (MDE)	All children entering DCF custody must have an MDE. At least 85% of these must be completed within 30 days.

ANNUAL FISCAL IMPACT OF JUAN F. COMPLIANCE

Since FY 91, the state has appropriated significant new dollars to DCF to support *Juan F.* compliance initiatives such as:

1. adding child protective services workers to reduce client-to-staff ratios to mandated levels;
2. staffing newly created agency functions, such as the DCF Training Academy;
3. moving and expanding state offices to accommodate increased staffing levels;
4. developing a new computer information system, known as LINK;
5. enhancing community based services for children and families at risk of abuse or neglect; and
6. increasing foster care rates.

Separating *Juan F.*-related expenditures from the remainder of DCF's budget has grown increasingly complex over time. This is primarily due to the fact that *Juan F.* initiatives have never been accounted for distinctly from the agency's pre-existing child welfare or other programs. Other complicating factors include the large number of mandates, their changeability over time, and the variability of costs associated with most funded activities from one year to the next (e.g., due to caseload changes, wage growth, inflationary adjustments and so forth).

One can however glimpse the impact of the consent decree in part by comparing the growth in the agency's budget over the lifetime of the consent decree with that of the state's General Fund.

FY 91 – FY 07: Agency Budget

As discussed above, the initial stipulated agreement was approved in January 1991. The first budget year in which dollars were explicitly appropriated for its purposes was FY 92. However, in the prior fiscal year (FY 91), funding was provided under the "Governor's Children's Initiative," in anticipation of the pending court settlement.

Attachment 1 shows DCF's funding history since FY 91. Over this time period the department's budget has increased from \$158.5 million to \$789.2 million (or 398%).¹

This compares with a 117% increase in the remainder of the state's General Fund expenditures over the same years.

The agency's authorized position count (reflecting full-time state employees) has increased from 1,718 to 3,546 (or by 1,828) from FY 91 to FY 07. Most, but not all, of this increase is related to the consent decree.

Other Charges Incurred by the State

In response to our request, the Office of the State Comptroller (OSC) identified \$352,085 in costs incurred since FY 03² for reimbursement of plaintiff's litigation costs/attorneys fees related to the consent decree.

Additionally, the state retained outside legal counsel to provide special expertise in the *Juan F.* case, beginning in 2000. To date, expenditures under this contract have totaled \$527,748.

Finally, the consent decree requires the state to reimburse the operating costs of the DCF Court Monitor's Office. Net payments since FY 03³ have totaled \$3,945,783 to date. An offsetting payment of \$989,315 was made by the prior Court Monitor, D. Ray Sirry, in 2006 under the terms of a repayment settlement. Yearly figures as follows in Table 3.

¹ Certain DCF functions were transferred to other state agencies, making the department's yearly expenditure figures less than wholly comparable. An example of this is funding of Youth Service Bureaus, which was transferred from DCF to the State Department of Education in FY 96.

² FY 03 represents the earliest year for which the OSC maintains financial records on-site, consistent with state records guidelines.

³ For comparison purposes, OFA records indicate FY 91 payments for the costs of the DCYS Monitoring Panel of \$194,302.

Table 3: DCF Court Monitor's Office Costs

Year	Cost
FY 03	\$1,129,600
FY 04	\$1,329,356
FY 05	\$1,413,926
FY 06	\$675,616
FY 07 Year to Date	\$386,600
Total – FY 03 - 07	\$4,935,098
<i>Less Repayment</i>	-\$989,315
Adjusted Total	\$3,945,783

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Attachment 1: Total DCF Expenditures from State Funds: FY 91 - FY 07

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
Original Authorized Position						
Count	1,718	1,884	2,075	2,531	2,787	2,869
Actual Expenditures (FY 07 Budgeted)						
DCF - Agency Operation [1]	\$73,140,530	\$79,243,673	\$89,990,351	\$109,880,895	\$125,793,667	\$143,123,308
Percent Change vs. Prior Year		8%	14%	22%	14%	14%
Percent Change vs. SFY 91		8%	23%	50%	72%	96%
DCF - Grants [2]	85,362,376	94,997,289	104,773,305	118,932,974	130,547,416	152,168,484
Percent Change vs. Prior Year		11%	10%	14%	10%	17%
Percent Change vs. SFY 91		11%	23%	39%	53%	78%
DCF Total State Funds	158,502,906	174,240,962	194,763,656	228,813,869	256,341,083	295,291,792
Percent Change vs. Prior Year		10%	12%	17%	12%	15%
Percent Change vs. SFY 91		10%	23%	44%	62%	86%
General Fund - All Agencies	6,639,906,196	7,255,184,900	7,336,121,360	7,904,156,816	8,616,888,285	8,846,148,512
Percent Change vs. Prior Year		9%	1%	8%	9%	3%
Percent Change vs. SFY 91		9%	10%	19%	30%	33%
General Fund - Less DCF	6,481,403,290	7,080,943,938	7,141,357,704	7,675,342,947	8,360,547,202	8,550,856,720
Percent Change vs. Prior Year		9%	1%	7%	9%	2%
Percent Change vs. SFY 91		9%	10%	18%	29%	32%

Attachment 1 (continued)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
Original Authorized Position Count	2,916	2,952	2,984	3,441	3,389	3,463
Actual Expenditures (FY 07 Budgeted)						
DCF - Agency Operation [1]	\$150,126,073	\$160,144,053	\$180,379,603	\$203,973,778	\$212,763,949	\$233,507,448
Percent Change vs. Prior Year	5%	7%	13%	13%	4%	10%
Percent Change vs. SFY 91	105%	119%	147%	179%	191%	219%
DCF - Grants [2]	179,550,279	183,676,150	215,033,209	238,901,429	266,390,934	306,375,005
Percent Change vs. Prior Year	18%	2%	17%	11%	12%	15%
Percent Change vs. SFY 91	110%	115%	152%	180%	212%	259%
DCF Total State Funds	329,676,352	343,820,204	395,412,812	442,875,207	479,154,883	539,882,453
Percent Change vs. Prior Year	12%	4%	15%	12%	8%	13%
Percent Change vs. SFY 91	108%	117%	149%	179%	202%	241%
General Fund - All Agencies	9,199,975,676	9,649,845,792	10,250,808,898	11,200,903,847	11,882,700,264	12,187,025,858
Percent Change vs. Prior Year	4%	5%	6%	9%	6%	3%
Percent Change vs. SFY 91	39%	45%	54%	69%	79%	84%
General Fund - Less DCF	8,870,299,324	9,306,025,588	9,855,396,086	10,758,028,640	11,403,545,381	11,647,143,405
Percent Change vs. Prior Year	4%	5%	6%	9%	6%	2%
Percent Change vs. SFY 91	37%	44%	52%	66%	76%	80%

Attachment 1 (continued)

	FY 03	FY 04	FY 05	FY 06	FY 07
Original Authorized Position Count	3,463	3,457	3,520	3,518	3,546
Actual Expenditures (FY 07 Budgeted)					
DCF - Agency Operation [1]	\$246,486,098	\$254,363,193	\$278,446,114	\$299,447,829	\$308,123,733
Percent Change vs. Prior Year	6%	3%	9%	8%	3%
Percent Change vs. SFY 91	237%	248%	281%	309%	321%
DCF - Grants [2]	319,004,813	353,044,445	381,066,259	430,276,180	481,099,396
Percent Change vs. Prior Year	4%	11%	8%	13%	12%
Percent Change vs. SFY 91	274%	314%	346%	404%	464%
DCF Total State Funds	565,490,911	607,407,638	659,512,373	729,724,009	789,223,129
Percent Change vs. Prior Year	5%	7%	9%	11%	8%
Percent Change vs. SFY 91	257%	283%	316%	360%	398%
General Fund - All Agencies	12,526,651,785	12,546,821,806	13,357,962,000	14,499,565,736	14,837,159,984
Percent Change vs. Prior Year	3%	0%	6%	9%	2%
Percent Change vs. SFY 91	89%	89%	101%	118%	123%
General Fund - Less DCF	11,961,160,874	11,939,414,168	12,698,449,627	13,769,841,727	14,047,936,855
Percent Change vs. Prior Year	3%	0%	6%	8%	2%
Percent Change vs. SFY 91	85%	84%	96%	112%	117%